

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

JULIE JENSEN, individually	:	
and	:	
CHARLES MEYER, by and through his next	:	
friend JULIE JENSEN,	:	
Plaintiffs,	:	
	:	
v.	:	No. 2:06-cv-41
	:	
ELAINE CASHIN, as ADMINISTRATOR for	:	
the ESTATE OF NORMAN WOOLARD	:	
and	:	
PAUL LENO and ELAINE LENO, as	:	
ADMINISTRATORS for the ESTATE OF	:	
PHILIP LENO,	:	
Defendants/Counterclaim Plaintiffs,:	:	
	:	
v.	:	
	:	
JULIE JENSEN, individually,	:	
and	:	
CHARLES MEYER, by and through his next	:	
friend JULIE JENSEN,	:	
Counterclaim Defendants.	:	

ORDER

Plaintiffs/Counterclaim Defendants Julie Jensen and Charles Meyer ("Counterclaim Defendants") commenced this declaratory judgment action on February 23, 2006. Elaine Cashin, as Administrator for the Estate of Norman Woolard, and Paul and Elaine Leno, as Administrators for the Estate of Philip Leno ("Counterclaim Plaintiffs"), filed answers and counterclaims seeking compensatory and punitive damages against Jensen and Meyer.

Currently before the Court is the Counterclaim Defendants'

Motion for Partial Summary Judgment (Doc. 88). In the course of discovery the Counterclaim Plaintiffs, or their attorneys, have expressed an intent to seek damages on behalf of the decedent's siblings. The Counterclaim Defendants move for summary judgment as to claims asserted by Norman Woolard's five siblings or Philip Leno's brother, on the grounds that such claims are not authorized under Vermont law.

Since the Motion for Partial Summary Judgment was filed, Counterclaim Plaintiff Elaine Cashin has submitted revised discovery responses which do not make any claim for damages on behalf of Norman Woolard's siblings. Therefore, the Motion is DENIED as moot as to Ms. Cashin. Counterclaim Plaintiffs Paul and Elaine Leno have not responded to the motion or submitted revised discovery responses.

Vermont law allows damages in wrongful death cases to be awarded only to a decedent's "wife and next of kin or husband and next of kin," not to other family members such as siblings. Vt. Stat. Ann. tit. 14, § 1492(b). Therefore, the Motion for Partial Summary Judgment is GRANTED as to claims for damages advanced by or on behalf of Philip Leno's brother.

Dated at Burlington, Vermont this 2nd day of April, 2007.

/s/ William K. Sessions III
William K. Sessions III
Chief Judge